

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TOMMY EARL SIMPSON,

Defendant-Appellant.

UNPUBLISHED

May 13, 1997

No. 178773

Van Buren Circuit Court

LC No. 94-008818-FH

Before: D.F. Walsh,* P.J., and R.P. Griffin** and W.P. Cynar,* JJ.

MEMORANDUM.

Defendant pleaded guilty to breaking and entering a building with intent to commit a felony or larceny, MCL 750.110; MSA 28.305, and was sentenced to 3-1/2 to 10 years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant first argues that the sentencing court incorrectly scored Offense Variable (OV) 11. This issue was raised for the first time through a motion for remand in this Court. The motion was denied as untimely under MCR 7.211(C)(1)(a). *People v Simpson*, unpublished order of the Court of Appeals, entered 5/14/96 (Docket No. 178773). This issue is therefore unpreserved and we decline to review it.

Next, defendant asserts that the sentencing court erred in refusing to strike from the presentence investigation report (PSIR) references to his juvenile contacts with the criminal system for which he did not have the benefit of counsel. Because the PSIR clearly indicated that defendant was not represented by counsel for the juvenile matters, the sentencing court acted properly in not considering the juvenile

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

**Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

record in sentencing defendant. *People v Zinn*, 217 Mich App 340, 342; 551 NW2d 704 (1996). However, the juvenile record of a defendant is information that may be included in the PSIR, MCR 6.425(A)(1), and the trial court found the information to be accurate. The court was not required to strike the information from the PSIR.

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar